

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

IN RE: Bankruptcy Case No. 23-43403-MLO
ARK LABORATORY, LLC, Chapter 11
Hon. Maria L. Oxholm
Debtor. /

**STIPULATED ORDER ALLOWING THE FILING OF A LATE
PROOF OF CLAIM AND LIFTING THE AUTOMATIC STAY
TO ALLOW LATORIA CLARK TO PURSUE INSURANCE**

WHEREAS, on or about September 14, 2022, Clark¹ was terminated from her employment with Debtor; and

WHEREAS, during the six (6) months following September 14, 2022, Clark, through her attorney's communicated in writing to the Debtor and gave notice to the Debtor of Clark's intended and potential (disputed) claim of wrongful termination under the Family and Medical Leave Act of 1993, 29 U.S.C. §§ 2601–2654 (2006)(FMLA); and

WHEREAS, on April 12, 2023 ("Petition Date"), after the hearing in the 51st District Court, the Debtor filed a voluntary petition (the "Petition") under Chapter 11 of the Bankruptcy Code, 11 U.S.C. §§101 *et seq.* (the "Bankruptcy Code"); and

¹ All capitalized terms not defined herein shall have the meanings ascribed to them in the Stipulation unless stated to the contrary herein.

WHEREAS, as a result of the filing of the Petition, Section 362(a) prevented Clark from taking any action to enforce her claims; and

WHEREAS, Clark was not listed on the Mailing Label Matrix filed by the Debtor with the Petition for providing Clark with notice of filing of the Petition and Clark contends that she did not receive notice of the filing of the Petition; and

WHEREAS, Clark's claim for damages under the FMLA is unsecured and disputed and is otherwise subject to Section 502 (b)(6) of the Bankruptcy Code; and

WHEREAS, the deadline established by the Court for unsecured creditors to file their proofs of claim was August 22, 2023 (the "Bar Date"); and

WHEREAS, Clark failed to file a proof of claim prior to the Bar Date; and

WHEREAS, the parties wish to allow Clark to file a late unsecured claim, subject to the terms and conditions of this Order;

This matter having come before the Court upon the stipulation of the Debtor, the Committee and Clark; the Court having read same and being otherwise fully and duly advised in the premises;

NOW, THEREFORE, the Court Orders as follows:

1. Clark is hereby authorized to file a late proof of claim as an unsecured creditor; provided, however, Clark shall file the late proof of claim within thirty (30) days of the entry of this Order

2. The entry of this Order does not constitute a finding as to the validity or amount of Clark's claim.

3. Clark waives her right to participate in any distribution from the Debtor's estate and shall exclusively rely on available insurance of the Debtor to pay alleged damages associated with her claim.

4. The automatic stay is lifted to allow Clark to exercise any of her state and federal law and non-bankruptcy remedies to enforce her rights under the FMLA to recover damages from Debtor solely as relates to pursuing available insurance of the Debtor that provides coverage for such claims.

5. The stay provisions of Bankruptcy Rule 4001(a)(3) are waived, Clark may immediately enforce and implement this Order.

6. This order shall be binding and effective notwithstanding any conversion of this bankruptcy case to a case under any other chapter of the Bankruptcy Code.

Signed on October 23, 2023



/s/ **Maria L. Oxholm**

Maria L. Oxholm
United States Bankruptcy Judge